

EXHIBIT E

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1 RICHARD B. DIX
2 UNITED STATES BANKRUPTCY COURT
3 DISTRICT OF NEVADA

4)
5)
6)
7 In re:) Case No.:
THE RHODES COMPANIES, LLC,)
aka "Rhodes Homes," et al.,) BK-S-09-14814-LBR
8 _____))
9) Chapter 11
AFFEATS:)
10 All Debtors)
11 _____)

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15 DEPOSITION OF RICHARD B. DIX
16 LAS VEGAS, NEVADA
17 THURSDAY, JULY 16, 2009
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REPORTED BY: JANET C. TRIMMER, RPR, CRR
23 NV CCR No. 864, CA CSR No. 4008
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8 THE RHODES COMPANIES, LLC,) BK-S-09-14814-LBR
9 aka "Rhodes Homes", et al.,) Chapter 11
10)
11 Affects:)
12 All Debtors)
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16 Deposition of RICHARD B. DIX, taken at
17 GREENBERG TRAURIG, LLP, located at 3773 Howard Hughes
18 Parkway, Suite 400 North, Las Vegas, Nevada, on
19 Thursday, July 16, 2009, at 1:11 p.m., before
20 Janet C. Trimmer, RPR, CRR, Certified Court Reporter
21 in and for the States of Nevada and California.

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1 RICHARD B. DIX

2 BY MR. KORNFELD:

3 Q. So you haven't seen him do anything
4 fraudulent; correct?

5 A. I have not physically seen him do anything
6 fraudulent.

7 Q. Have you seen any documents that would
8 indicate to you that he has done anything fraudulent?

9 MR. QURESHI: Object to form.

10 THE WITNESS: For example, the document
11 that's attached here in exhibit A that you referred to
12 implied that Mr. Rhodes has behaved in a fraudulent
13 manner in numerous cases.

14 Again, our firm has not been hired to
15 determine or uncover those type of activities. So I'm
16 not in a position to say whether he has or has not
17 behaved in a fraudulent manner.

18 BY MR. KORNFELD:

19 Q. That wasn't my question, sir. My question
20 is -- try to listen to it and just answer my question.
21 We'll get done sooner, I promise.

22 A. All right, sir.

23 Q. Here's the question again:

24 Have you seen any documents that would
25 indicate to you that Mr. Rhodes has done anything

1 RICHARD B. DIX

2 fraudulent?

3 MR. QURESHI: Object to the form.

4 THE WITNESS: I personally have not seen any
5 documents, again excluding the exhibit that's attached
6 herein. I have not had -- been privy to any legal
7 counsel's interpretation of documents as in the Main
8 report and others that would interpret one way or
9 another, but I have personally not reviewed anything
10 to date that I would interpret again -- I'm not sure
11 that I'm qualified to interpret fraudulent or
12 non-fraudulent, but behavior by Mr. Rhodes.

13 BY MR. KORNFELD:

14 Q. Again, my question is simple, and if you can
15 give a yes-or-no answer I can move on.

16 Have you personally seen any documents other
17 than exhibit A to the trustee motion that would
18 indicate to you Mr. Rhodes has engaged in fraudulent
19 activity?

20 MR. QURESHI: Objection. Asked and answered.

21 THE WITNESS: The Main report indicates that
22 Mr. Rhodes was allocating time between creditor --
23 excuse me -- debtor inside the credit facility and
24 outside the credit facility and at the -- prior to
25 bankruptcy Mr. Rhodes elected to pay the noncreditor

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RICHARD B. DIX

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he's looked at something that I haven't now, why don't we do this. Why don't we e-mail to Brett a copy of that whatever was on the BlackBerry. She can print it out, make copies for everybody, and then we can all have it in front of us.

7

MR. QURESHI: A wonderful suggestion.

8

MR. KORNFELD: So let's wait two minutes and do that -- why don't we do this: Why don't we proceed with another line of questioning, and then we'll take a break and we'll go back to the engagement letter and go through that again.

13

MR. QURESHI: Perfect.

14

BY MR. KORNFELD:

15

Q. Mr. Dix, do you recall a single person who used the word "thief" with reference to Mr. Rhodes?

17

MR. QURESHI: Objection.

18

You can answer.

19

THE WITNESS: I do not recall anyone specifically using that word.

21

BY MR. KORNFELD:

22

Q. Do you recall a single person who used the word "fraud" or the word "fraudulent" to describe Mr. Rhodes's conduct?

25

MR. QURESHI: Object to the form.

1 RICHARD B. DIX

2 You can answer.

3 THE WITNESS: We've heard lots of stories,
4 Alan, and so my -- I do not recall them using that
5 specific word. But again, we've heard lots of
6 stories, so...

7 BY MR. KORNFELD:

8 Q. Do you recall a single person who used the
9 word "stealing" to describe any acts committed by
10 Mr. Rhodes?

11 MR. QURESHI: Object to form.

12 You can answer.

13 THE WITNESS: Again, the interpretation of
14 the word can have many meanings, but I don't recall
15 specifically the word "stealing" or a conversation
16 specifically with the word "stealing."

17 BY MR. KORNFELD:

18 Q. Have you witnessed any potentially criminal
19 activity, to use the phrase in the trustee's -- the
20 trustee motion at paragraph 8, by Mr. Rhodes?

21 MR. QURESHI: Object to the form, and calls
22 for a legal conclusion.

23 THE WITNESS: We've not been, I've not been
24 privy to shadow Mr. Rhodes in all of his activities,
25 so I do not recall any time seeing Mr. Rhodes create

1 RICHARD B. DIX

2 a -- what was the word? Did you use the word --

3 BY MR. KORNFELD:

4 Q. Criminal activity.

5 A. Criminal activity. I have not had an
6 opportunity to shadow him.

7 Q. Did anybody tell you that Mr. Rhodes has
8 committed a criminal act?

9 MR. QURESHI: Object to form.

10 THE WITNESS: Again, I'm not an attorney, so
11 interpreting someone's, whether it's criminal activity
12 or not, I'm not in a position to comment. People have
13 told me many, many stories about Mr. Rhodes; they take
14 many forms, they use a variety of words to describe
15 them. What your interpretation of "criminal" or the
16 court's or someone else, I'm not in a position to
17 comment, but I don't recall anyone specifically using
18 the word "criminal," and unfortunately, I don't recall
19 every conversation and every word used in those
20 conversations.

21 BY MR. KORNFELD:

22 Q. To be clear, as you sit here today, did
23 anybody use the word "criminal" to describe any act by
24 Mr. Rhodes?

25 MR. QURESHI: Object to form.

1 RICHARD B. DIX

2 THE WITNESS: I don't recall.

3 BY MR. KORNFELD:

4 Q. Did anybody use the word "criminal" in a
5 conversation with you to describe any act by
6 Mr. Rhodes?

7 A. That specific word, I don't recall.

8 Q. When I asked you if you had heard of
9 potential fraudulent activity by Mr. Rhodes, you
10 referenced three sets of facts. One was Harmony home
11 building. Do you recall that testimony?

12 A. I do.

13 Q. One was the rent for John Rhodes' house. Do
14 you recall that testimony?

15 A. It was actually the company's house, but yes,
16 I do.

17 Q. The rent for the house that was paid to John
18 Rhodes; right?

19 A. Correct.

20 Q. So that's the second set of acts.

21 Number 3 set of acts of potentially
22 fraudulent activity was, according to you,
23 mismanagement of accounting processes. Do you recall
24 that testimony?

25 A. I do.

1 RICHARD B. DIX

2 Q. I like praise. Okay.

3 So you do not know whether there was a proper
4 reconciliation between the in-credit and out-of-credit
5 companies with respect to the Pravada grading issue,
6 do you?

7 A. That is correct.

8 Q. Since April 1, have the debtors made any cash
9 payments to nondebtor entities that WCP views as being
10 inappropriate?

11 A. I can't comment on that, because there's one
12 of our accountants on staff actually reviews that. So
13 that's something that I can't comment on. But I'm not
14 aware of -- so I can just finish here, Alan, before
15 you get to the question and ask it to me again. That
16 I'm personally not aware of any payments to any of
17 those entities.

18 Q. Has the accountant who reviews payments told
19 you that the debtors have made inappropriate cash
20 payments to nondebtor entities since April 1?

21 A. No, they have not.

22 Q. Have the debtors made any inappropriate
23 payments whatsoever, to your knowledge, since April 1?

24 A. Not to my knowledge.

25 Q. Has your accountant told you that the debtors

1 RICHARD B. DIX

2 have made inappropriate payments since April 1?

3 A. Not that I'm aware of.

4 Q. And you would expect that if the debtors were
5 making inappropriate payments to anybody, the
6 accountant that works for you would have told you
7 that; correct?

8 A. Based on their limited visibility, I guess,
9 if they knew of it, they would tell me.

10 Q. Really fast, wouldn't they?

11 A. You would hope, yes.

12 Q. In fact, all of us in this room would have
13 heard about any such inappropriate payments if you or
14 anybody else at WCP knew about them; correct?

15 A. That is correct.

16 Q. Have you seen anything that would indicate to
17 you that Mr. Schramm has done anything dishonest?

18 A. Not anything that I recall.

19 Q. Has your accountant, who has been basically
20 living at Rhodes, told you that Mr. Schramm has done
21 anything dishonest?

22 MR. QURESHI: Object to the form.

23 THE WITNESS: Not that I recall.

24 BY MR. KORNFELD:

25 Q. Has anybody told you that Mr. Schramm has

1 RICHARD B. DIX

2 done anything dishonest?

3 A. Not that I recall.

4 Q. You reference the Alix report, which is
5 exhibit A to the trustee motion. Let's turn to that.

6 Sir, my copy of the Alix report is not signed
7 by any AlixPartners who drafted the report. Does your
8 copy have a signature block on it?

9 MR. QURESHI: That would be the same copy you
10 gave him?

11 MR. KORNFELD: Yes.

12 THE WITNESS: No, it does not.

13 BY MR. KORNFELD:

14 Q. Do you know which of the AlixPartners were
15 the authors of exhibit A to the trustee motion?

16 A. I do not.

17 Q. Have you ever heard anybody mention the name
18 of who the authors of this report that is exhibit A to
19 the trustee motion were?

20 A. Not that I recall.

21 MR. QURESHI: Could we go off the record for
22 just 10 seconds?

23 MR. KORNFELD: Sure.

24 (Discussion off the record.)

25 MR. KORNFELD: Let's go on the record.